

ASSEMBLY BILL

No. 2114

Introduced by Assembly Member Longville

February 22, 2000

An act to amend Sections 7401, 7451, 7487, 7491, 7506, 7508, 7651, 7660, 7705, 7726, 7727, 8253, 60050, and 60050.1 of, to add Section 60050.2 to, to add Chapter 2 (commencing with Section 7350) to Part 2 of Division 2 of, to repeal Sections 7406, 7408, 7409, and 8304 of, to repeal Article 2 (commencing with Section 7481) of Chapter 4 of Part 2 of Division 2 of, to repeal Chapter 2 (commencing with Section 7351) of Part 2 of Division 2 of, to repeal and add Sections 7506.5, 7652, 7652.5, 8303, and 60202.1 of, to repeal and add Chapter 1 (commencing with Section 7301) of Part 2 of Division 2 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2114, as introduced, Longville. Motor vehicle and diesel fuel taxes.

Existing law imposes a license tax upon distributors for the privilege of distributing motor vehicle and diesel fuel, at the rate of 18¢ per gallon for each gallon of fuel distributed.

This bill would revise that tax, on and after January 1, 2002, to be an amount calculated based on the prior year's rate adjusted by the California Consumer Price Index.

The bill would also revise and recast the provisions of the Motor Vehicle Fuel License Tax Law to be similar to the provisions of the Diesel Fuel Tax Law.

The bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 1 (commencing with Section
2 7301) of Part 2 of Division 2 of the Revenue and Taxation
3 Code is repealed.

4 SEC. 2. Chapter 1 (commencing with Section 7301)
5 is added to Part 2 of Division 2 of the Revenue and
6 Taxation Code, to read:

7

8 CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

9

10 7301. This part is known and may be cited as the
11 “Motor Vehicle Fuel License Tax Law.”

12 7302. Except where the context otherwise requires,
13 the definitions given in this chapter govern the
14 construction of this part.

15 7303. “Approved terminal or refinery” means a
16 terminal or refinery that is operated, respectively, by a
17 motor vehicle fuel registrant that is a terminal operator,
18 or by a motor vehicle fuel registrant that is a refiner.

19 7304. “Blended motor vehicle fuel” means any
20 mixture of motor vehicle fuel with respect to which tax
21 has been imposed with any other liquid on which tax has
22 not been imposed. Blended motor vehicle fuel also means
23 any conversion of a liquid into motor vehicle fuel.
24 “Conversion of a liquid into motor vehicle fuel” occurs
25 when any liquid that is not included in the definition of
26 motor vehicle fuel and that is outside the bulk
27 transfer/terminal system is sold as motor vehicle fuel,
28 delivered as motor vehicle fuel or represented to be
29 motor vehicle fuel.

30 7305. “Blender” includes any person that produces
31 blended motor vehicle fuel outside the bulk
32 transfer/terminal system.

33 7306. “Bulk transfer” means any transfer of motor
34 vehicle fuel by pipeline or vessel.



1 7307. “Bulk transfer/terminal system” means the
2 motor vehicle fuel distribution system consisting of
3 refineries, pipelines, vessel, and terminals. Motor vehicle
4 fuel in a refinery, pipeline, vessel or terminal is in the bulk
5 transfer/terminal system. Motor vehicle fuel in the fuel
6 tank of any engine, or in any railcar, trailer, truck, or other
7 equipment suitable for ground transportation is not in the
8 bulk transfer/terminal system.

9 7308. “Distributor” includes any person who is any of
10 the following:

- 11 (a) Blender, as defined in Section 7305.
- 12 (b) Enterer, as defined in Section 7309.
- 13 (c) Position holder, as defined in Section 7318.
- 14 (d) Refiner, as defined in Section 7320.
- 15 (e) Terminal operator, as defined in Section 7324.
- 16 (f) Throughputter, as defined in Section 7325.

17 7309. “Enterer” includes any person who is the
18 importer of record (under federal customs law) with
19 respect to motor vehicle fuel. If the importer of record is
20 acting as an agent, the person for whom the agent is
21 acting is the enterer. If there is no importer of record of
22 motor vehicle fuel entered into this state, the owner of
23 the motor vehicle fuel at the time it is brought into this
24 state is the enterer.

25 7310. “Entry” means the importing of motor vehicle
26 fuel into this state. However, motor vehicle fuel brought
27 into this state in the fuel tank of a motor vehicle shall not
28 be deemed to be an “entry” if not removed from the fuel
29 tank except as used for the operation of that motor
30 vehicle, except to the extent that motor vehicle fuel was
31 acquired tax free for export or a refund of tax was claimed
32 as a result of exportation from the state from which that
33 motor vehicle fuel was transported into this state.

34 7311. “Highway” includes a way or place, of whatever
35 nature, publicly maintained and open to the use of the
36 public for purposes of vehicular travel.

37 7312. “In this state” or “in the state” means within the
38 exterior limits of the State of California and includes all
39 territory within these limits owned by or ceded to the
40 United States of America.

1 7313. “Motor vehicle” includes every self-propelled
2 vehicle operated or suitable for operation on the
3 highway.

4 7314. “Motor vehicle fuel” includes gasoline, natural
5 gasoline, blends of gasoline, and alcohol containing more
6 than 15 percent gasoline, and any inflammable liquid, by
7 whatever name the liquid may be known or sold, which
8 is used or is usable for propelling motor vehicles operated
9 by the explosion type of engine. It does not include
10 kerosene, liquefied petroleum gas, natural gas in liquid or
11 gaseous form, ethanol, or methanol. It does not include
12 inflammable liquids specifically manufactured for racing
13 motor vehicles which do not contain gasoline or natural
14 gasoline and which are distributed and used for racing
15 motor vehicles at a racetrack.

16 7315. “Motor vehicle fuel registrant” includes any
17 enterer, position holder, refiner, or terminal operator,
18 that is licensed as a distributor pursuant to Section 7451.

19 7316. “Natural gas” means naturally occurring
20 mixtures of hydrocarbon gases and vapors consisting
21 principally of methane, whether in gaseous or liquid
22 form.

23 7317. “Person” includes any individual, firm,
24 partnership, joint venture, limited liability company,
25 association, social club, fraternal organization,
26 corporation, estate, trust, business trust, receiver, trustee,
27 syndicate, the United States, this state, any county, city
28 and county, municipality, district, or other political
29 subdivision of the state, or any other group or
30 combination acting as a unit.

31 7318. “Position holder” includes any person that holds
32 the inventory position in the motor vehicle fuel, as
33 reflected on the records of the terminal operator. A
34 person holds the inventory position in motor vehicle fuel
35 when that person has a contractual agreement with the
36 terminal operator for the use of storage facilities and
37 terminaling services at a terminal with respect to the
38 motor vehicle fuel. “Position holder” includes a terminal
39 operator that owns motor vehicle fuel in its terminal.



7319. “Rack” means a mechanism for delivering motor vehicle fuel from a refinery or terminal into a truck, trailer, railroad car, or other means of nonbulk transfer.

7320. “Refiner” includes any person that owns, operates, or otherwise controls a refinery.

7321. “Refinery” means a facility used to produce motor vehicle fuel from crude oil, unfinished oils, natural gas liquids, or other hydrocarbons and from which motor vehicle fuel may be removed by pipeline, by vessel, or at a rack.

7322. “Removal” means any physical transfer of motor vehicle fuel, and any use of motor vehicle fuel other than as a material in the production of motor vehicle fuel. However, motor vehicle fuel is not removed when it evaporates or is otherwise lost or destroyed.

7323. “Terminal” means a motor vehicle fuel storage and distribution facility that is supplied by pipeline or vessel, and from which motor vehicle fuel may be removed at a rack.

7324. “Terminal operator” includes any person that owns, operates, or otherwise controls a terminal.

7325. “Throughputter” means any person that owns motor vehicle fuel with the bulk transfer/terminal system (other than in a terminal) or is a position holder.

7326. “Vessel” includes every description of motor craft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

SEC. 3. Chapter 2 (commencing with Section 7351) of Part 2 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 4. Chapter 2 (commencing with Section 7350) is added to Part 2 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 2. IMPOSITION OF TAX

7350. (a) (1) A tax of eighteen cents (\$0.18) is hereby imposed upon each gallon of fuel subject to the tax in Sections 7352 and 7353.

1 (2) Commencing April 1, 2001, and on each April 1
2 thereafter, the board shall establish the rate of the motor
3 vehicle fuel tax by multiplying the prior year's motor
4 vehicle tax rate by an adjustment factor. The adjustment
5 factor shall be the percentage change from August of the
6 prior fiscal year to August of the current fiscal year in the
7 California Consumer Price Index for all items, as
8 determined by the California Department of Industrial
9 Relations, or its successor agency. Any increase or
10 decrease in the tax rate shall be made in increments of
11 one-tenth of one cent (\$0.001) per gallon. The board shall
12 make its determination of the rate no later than
13 November 1 of the year prior to the effective date of the
14 new rate. Immediately upon making its determination
15 and setting of the rate, the board shall each year, no later
16 than January 1, notify by mail every distributor of motor
17 vehicle fuel.

18 (b) If the federal fuel tax is reduced below the rate of
19 nine cents (\$0.09) per gallon and federal financial
20 allocations to this state for highway and exclusive public
21 mass transit guideway purposes are reduced or
22 eliminated correspondingly, the tax rate imposed by this
23 section, on and after the date of the reduction, shall be
24 recalculated by an amount so that the combined state and
25 federal tax rate per gallon equals twenty-seven cents
26 (\$0.27) on and after January 1, 1994, and at the combined
27 rate per gallon of the amount calculated pursuant to
28 paragraph (2) plus nine cents (\$0.09) on and after
29 January 1, 2002.

30 (c) If any person or entity is exempt or partially
31 exempt from the federal fuel tax at the time of a
32 reduction, the person or entity shall continue to be so
33 exempt under this section.

34 7351. (a) For the privilege of storing for the purpose
35 of sale or use in the propulsion of a motor vehicle on a
36 highway, every person, except a duly licensed distributor,
37 the government of the United States or any agency
38 thereof, this state or any county, city and county, city,
39 district, or any other political subdivision or agency of this
40 state owning 1,000 gallons or more of motor vehicle fuel

1 on April 1, 2001, and on April 1 of each year thereafter
2 shall pay a tax at the adjusted rate for each gallon of the
3 fuel according to the volumetric measure thereof, on
4 which a license tax has been imposed under Section 7350.
5 However, no storage tax shall be imposed if the rate
6 adjustment is less than two cents (\$0.02) per gallon for
7 that fiscal year.

8 (b) For purposes of subdivision (a):

9 (1) "Storing" includes the possession in a storage
10 facility, except an approved terminal or refinery, or a
11 container of any kind, including the fuel tanks of motor
12 vehicles, of motor vehicle fuel and the fuel purchased
13 from, and invoiced by, the seller prior to April 1, and in
14 transit on that date.

15 (2) "Owning" means having title to the motor vehicle
16 fuel.

17 7352. The tax specified in Section 7350 is imposed on
18 the removal of motor vehicle fuel in this state from a
19 terminal if the motor vehicle fuel is removed at the rack.

20 7353. The tax specified in Section 7350 is also imposed
21 on all of the following:

22 (a) The removal of motor vehicle fuel in this state from
23 any refinery if either of the following applies:

24 (1) The removal is by bulk transfer and the refiner or
25 the owner of the motor vehicle fuel immediately before
26 the removal is not a motor vehicle fuel registrant.

27 (2) The removal is at the refinery rack.

28 (b) The entry of motor vehicle fuel into this state for
29 sale, consumption, use, or warehousing if either of the
30 following applies:

31 (1) The entry is by bulk transfer and the enterer is not
32 a motor vehicle fuel registrant.

33 (2) The entry is not by bulk transfer.

34 (c) The removal of motor vehicle fuel in this state to
35 an unregistered person unless there was a prior taxable
36 removal, entry, or sale of the motor vehicle fuel.

37 (d) The removal of sale of blended motor vehicle fuel
38 in this state by the blender thereof. The number of gallons
39 of blended motor vehicle fuel subject to tax is the
40 difference between the total number of gallons of

1 blended motor vehicle fuel removed or sold and the
2 number of gallons of previously taxed motor vehicle fuel
3 used to produce the blended motor vehicle fuel.

4 7354. Every refiner shall pay tax on the removal of
5 motor vehicle fuel from a refinery as provided in
6 subdivision (a) of Section 7353.

7 7355. Every position holder shall pay the tax on the
8 removal of motor vehicle fuel from a terminal as defined
9 under Section 7352.

10 7356. Any person that produces blended motor
11 vehicle fuel outside the bulk transfer/terminal system
12 (the blender) shall pay tax as provided in subdivision (d)
13 of Section 7353.

14 7357. The terminal operator is jointly and severally
15 liable for the tax imposed under Section 7352 if both of the
16 following apply:

17 (a) The position holder with respect to the motor
18 vehicle fuel is a person other than the terminal operator
19 and is not a motor vehicle fuel registrant.

20 (b) The terminal operator has not met the conditions
21 of Section 7358.

22 7358. A terminal operator is not liable for tax under
23 Section 7357, if at the time of the removal, all of the
24 following apply:

25 (a) The terminal operator is a motor vehicle fuel
26 registrant.

27 (b) The terminal operator has an unexpired
28 notification certificate from the position holder as
29 required by the Internal Revenue Service.

30 (c) The terminal operator has no reason to believe that
31 any information in the certificate is false.

32 7359. Every enterer shall pay tax on motor vehicle
33 fuel imported into this state as provided in subdivision (b)
34 of Section 7353.

35 SEC. 5. Section 7401 of the Revenue and Taxation
36 Code is amended to read:

37 7401. (a) The provisions of this part requiring the
38 payment of license taxes do not apply to any of the
39 following:



1 ~~(1) Natural gasoline distributed to a duly licensed~~
2 ~~distributor under any regulations as the board may~~
3 ~~prescribe.~~

4 ~~(2) Motor vehicle fuel exported from this state by the~~
5 ~~distributor or delivered by the distributor to any vessel~~
6 ~~clearing from a port of this state for a port outside of this~~
7 ~~state and actually exported from this state in the vessel.~~

8 ~~(3) Motor vehicle fuel distributed, or delivered on the~~
9 ~~order of the owner, to a distributor who has furnished~~
10 ~~bond as prescribed by Sections 7486 and 7487 of not less~~
11 ~~than fifty thousand dollars (\$50,000), nor more than one~~
12 ~~million dollars (\$1,000,000), and who has established to~~
13 ~~the satisfaction of the board that this bond, together with~~
14 ~~property to which the lien imposed by Section 7872~~
15 ~~attaches, is sufficient security to assure payment of all~~
16 ~~license taxes as they may become due to the state from~~
17 ~~him or her under this part.~~

18 ~~(4) Motor vehicle fuel sold to the United States armed~~
19 ~~forces for use in ships or aircraft, or for use outside this~~
20 ~~state.~~

21 ~~(5) Motor vehicle fuel distributed to any licensed~~
22 ~~distributor, or to any licensed broker who has furnished~~
23 ~~bond in the form and amount required of distributors~~
24 ~~under Article 2.1 (commencing with Section 7486) of~~
25 ~~Chapter 4, for sale to the United States armed forces for~~
26 ~~use in ships or aircraft or use outside this state.~~
27 ~~Notwithstanding any other provisions of this part, the~~
28 ~~receiving of motor vehicle fuel in this state from a~~
29 ~~licensed distributor and the sale and delivery of the fuel~~
30 ~~to the United States armed forces pursuant to this~~
31 ~~subdivision shall not cause a broker to be a distributor~~
32 ~~under this part.~~

33 ~~(6)—~~

34 *(1) Any entry or removal from a terminal or refinery*
35 *of taxable motor vehicle fuel transferred in bulk to a*
36 *refinery or terminal if the persons involved (including*
37 *the terminal operator) are registered.*

38 *(2) The removal of motor vehicle fuel, if all of the*
39 *following apply:*

1 (A) The motor vehicle fuel is removed by railroad car
2 from an approved refinery and is received at an approved
3 terminal.

4 (B) The refinery and the terminal are operated by the
5 same motor vehicle fuel registrant.

6 (C) The refinery is not served by pipeline (other than
7 a pipeline for the receipt of crude oil) or vessel.

8 (3) Motor vehicle fuel which, pursuant to the contract
9 of sale, is required to be shipped and is shipped to a point
10 outside of this state by a distributor by means of any of the
11 following:

12 (A) Facilities operated by the distributor.

13 (B) Delivery by the distributor to a carrier, customs
14 broker, or forwarding agency, whether hired by the
15 purchaser or not, for shipment to the out-of-state point.

16 (C) Delivery by the distributor to any vessel clearing
17 from a port of this state for a port outside of this state and
18 actually exported from this state in the vessel.

19 (4) Motor vehicle fuel sold by credit card certified by
20 the United States Department of State to any consulate
21 officer or consulate employee of a foreign government
22 who is not engaged in any private occupation for gain
23 within this state, who uses the motor vehicle fuel in a
24 motor vehicle that is registered with the United States
25 Department of State, and whose government has done
26 either of the following:

27 (A) Entered into a treaty with the United States
28 providing for the exemption of its representatives from
29 national, state, and municipal taxes.

30 (B) Granted a similar exemption to representatives of
31 the United States.

32 ~~(b) Every distributor claiming an exemption shall~~
33 ~~report the exports, sales or distributions to the board in~~
34 ~~the detail as the board may require; otherwise the~~
35 ~~exemption granted in this section shall be null and void~~
36 ~~and all the fuel shall be considered distributed in this state~~
37 ~~subject fully to the provisions of this part. For purposes of~~
38 ~~this section:~~

39 (1) "Carrier" means a person or firm engaged in the
40 business of transporting for compensation property

1 owned by other persons, and includes both common and
2 contract carriers.

3 (2) "Forwarding agent" means a person or firm
4 engaged in the business of preparing property for
5 shipment or arranging for its shipment.

6 SEC. 6. Section 7406 of the Revenue and Taxation
7 Code is repealed.

8 ~~7406. The provisions of Section 7401, as they read~~
9 ~~prior to their amendment in 1947, exempting motor~~
10 ~~vehicle fuel sold to the Government of the United States~~
11 ~~from the measure of the license tax imposed hereunder~~
12 ~~shall not apply to any motor vehicle fuel sold to~~
13 ~~contractors purchasing such fuel either for their own~~
14 ~~account or as the agents of the United States for use in the~~
15 ~~performance of contracts with the United States.~~

16 SEC. 7. Section 7408 of the Revenue and Taxation
17 Code is repealed.

18 ~~7408. Any distributor or broker who acquires motor~~
19 ~~vehicle fuel pursuant to paragraph (5) of subdivision (a)~~
20 ~~of Section 7401 shall furnish to the distributor an~~
21 ~~exemption certificate executed by the armed forces and~~
22 ~~in the form as prescribed by the board. The distributor~~
23 ~~shall retain the certificate in his records in support of the~~
24 ~~exemption.~~

25 SEC. 8. Section 7409 of the Revenue and Taxation
26 Code is repealed.

27 ~~7409. Any distributor or broker who purchases or~~
28 ~~acquires motor vehicle fuel pursuant to paragraph (5) of~~
29 ~~subdivision (a) of Section 7401 who fails to deliver it to the~~
30 ~~United States armed forces, or who diverts it from~~
31 ~~interstate or foreign transit begun in this state, or who~~
32 ~~returns it to this state for sale or use so as to avoid any of~~
33 ~~the taxes imposed by this part, shall be liable for the tax,~~
34 ~~penalty, and interest, as provided in Article 4~~
35 ~~(commencing with Section 7726) of Chapter 5; and the~~
36 ~~distributor or broker shall also be subject to prosecution~~
37 ~~as provided in Section 8401.~~

38 SEC. 9. Section 7451 of the Revenue and Taxation
39 Code is amended to read:

1 7451. Every person before becoming a distributor
2 shall apply to the board for a license authorizing the
3 person to engage in business as a distributor. A
4 distributor's license shall be issued only to a person who
5 is a distributor of motor vehicle fuel within the meaning
6 of the word "distribution" as defined in Section 7305, ~~or~~
7 ~~who is an aircraft manufacturer, or certificated or~~
8 ~~licensed carrier by air. If an applicant for a license applies~~
9 ~~therefor to become authorized to distribute motor~~
10 ~~vehicle fuel under subdivision (c) or (d) of Section 7305~~
11 ~~and is not engaged in refining, manufacturing, or~~
12 ~~producing motor vehicle fuel in this state, the board may~~
13 ~~limit the authorization granted by the license issued to~~
14 ~~that person to transactions under subdivision (c) or (d)~~
15 ~~of Section 7305 and the provisions of paragraph 3 of~~
16 ~~subdivision (a) of Section 7401 shall not be applicable to~~
17 ~~the person whose license is so limited~~ 7308. It is unlawful
18 for any person to be a distributor without first securing a
19 license.

20 SEC. 10. Article 2 (commencing with Section 7481) of
21 Chapter 4 of Part 2 of Division 2 of the Revenue and
22 Taxation Code is repealed.

23 SEC. 11. Section 7487 of the Revenue and Taxation
24 Code is amended to read:

25 7487. Subject to the limitations provided in this
26 section, the board shall fix the total amount of the security
27 required of any distributor ~~or broker~~ and may increase or
28 reduce the amount at any time. The total amount of the
29 security required of any distributor ~~or broker~~ shall never
30 be more than three times the estimated average monthly
31 tax liability of the distributor ~~or broker~~ but not in excess
32 of one million dollars (\$1,000,000).

33 SEC. 12. Section 7491 of the Revenue and Taxation
34 Code is amended to read:

35 7491. The board may refuse to issue a distributor's,
36 ~~producer's, or broker's~~ license:

37 (a) If the application therefor is filed by an applicant
38 who formerly held any license under this part which,
39 prior to the time of filing the application, has been
40 revoked for cause by the board; or

(b) If the board determines that the application therefor is not filed in good faith or made by the real person in interest.

SEC. 13. Section 7506 of the Revenue and Taxation Code is amended to read:

7506. The board may revoke the license of any distributor, ~~producer, or broker~~ who refuses or neglects to comply with any provisions of this part or any rule or regulation of the board prescribed and adopted under this part.

SEC. 14. Section 7506.5 of the Revenue and Taxation Code is repealed.

~~7506.5. The board may revoke any of the following licenses:~~

~~(a) Any distributor's license held by a person who does not engage in, or who discontinues, the distribution of motor vehicle fuel within the meaning of "distribution" as defined in Section 7305.~~

~~(b) Any producer's license held by a person who does not engage in, or who discontinues, business as a "producer" as defined in Section 7307.~~

~~(c) Any broker's license held by a person who does not engage in, or who discontinues, engaging in the redistribution of motor vehicle fuel as a "broker" as defined in Section 7308.~~

SEC. 15. Section 7506.5 is added to the Revenue and Taxation Code, to read:

7506.5. The board may revoke any distributor's license held by a person who does not engage in, or who discontinues, the removal, entry, or sale of diesel fuel, producing of blended diesel fuel, owning or holding inventory position of diesel fuel, or owning or operating a refinery or terminal as any of the following:

(a) A blender, as defined in Section 7305.

(b) A enterer, as defined in Section 7309.

(c) A position holder, as defined in Section 7318.

(d) A refiner, as defined in Section 7320.

(e) A terminal operator, as defined in Section 7324.

(f) A throughputter, as defined in Section 7325.

1 SEC. 16. Section 7508 of the Revenue and Taxation
2 Code is amended to read:

3 7508. The board may cancel any license issued under
4 this part immediately upon surrender thereof but before
5 revoking a license the board shall allow the distributor;
6 ~~producer, or broker~~ an opportunity to show cause as
7 provided in Section 7507.

8 SEC. 17. Section 7651 of the Revenue and Taxation
9 Code is amended to read:

10 7651. Each distributor shall prepare and file with the
11 board on forms prescribed by the board a return showing
12 the total number of gallons of motor vehicle fuel
13 ~~distributed or redistributed by the distributor removed,~~
14 ~~sold, or entered by him or her~~ within this state during
15 each calendar month, or that monthly period ended
16 during that calendar month as the board may authorize,
17 the amount of license tax due for the month covered by
18 the return, and other information as the board deems
19 necessary for the proper administration of this part. The
20 ~~distributor~~ *person* shall file the return on or before the
21 25th day of the calendar month following the monthly
22 period to which it relates, together with a remittance
23 payable to the Controller for the amount of license tax
24 due for that period less whatever amounts may have been
25 paid theretofore for the same period because of returns
26 and payments made on a weekly basis.

27 SEC. 18. Section 7652 of the Revenue and Taxation
28 Code is repealed.

29 ~~7652. Each producer and broker shall file a return in~~
30 ~~such form as may be prescribed by the board for each~~
31 ~~calendar month. The return shall be filed with the board~~
32 ~~on or before the 25th day of the calendar month following~~
33 ~~the close of the monthly period to which it relates,~~
34 ~~together with a remittance payable to the Controller of~~
35 ~~the amount of tax, if any, due under Sections 7356 and~~
36 ~~7357 for that period. To facilitate the administration of~~
37 ~~this part the board may require the filing of such returns~~
38 ~~for other than monthly periods. All provisions of this part~~
39 ~~relating to collection of tax from distributors shall be~~
40 ~~applicable to the tax payable by brokers and producers.~~

SEC. 19. Section 7652 is added to the Revenue and Taxation Code, to read:

7652. (a) Each throughputter shall prepare and make a return showing the following:

(1) The name and permit number of the operator of each terminal at which it holds an inventory position in taxable motor vehicle fuel.

(2) Any other information required by the board.

(b) Each throughputter shall prepare and file with the board on forms prescribed by the board a return showing the information in subdivision (a) during each calendar month, or the monthly period ended during that calendar month as the board may authorize. The person shall file the return on or before the last day of the calendar month following the monthly period to which it relates. To facilitate the administration of this part, the board may require the filing of the returns for other than monthly periods.

SEC. 20. Section 7652.5 of the Revenue and Taxation Code is repealed.

~~7652.5. A distributor or broker who has purchased tax-paid motor vehicle fuel shall be allowed a deduction on the distributor's or broker's tax return with respect to that redistribution of tax-paid fuel reported on the distributor's or broker's tax return.~~

SEC. 21. Section 7652.5 is added to the Revenue and Taxation Code, to read:

7652.5. Each terminal operator shall file with the board a copy of any return required to be filed with the Internal Revenue Service pursuant to Section 48.4101-4T of Title 26 of the Code of Federal Regulations. The copy of the return shall be filed no later than 10 days after the original filing of the federal return.

SEC. 22. Section 7660 of the Revenue and Taxation Code is amended to read:

7660. If any distributor fails, neglects, or refuses to file the return within the time prescribed by this chapter, the board shall estimate the motor vehicle fuel ~~distributions~~ *removals, entries, or sale* for the period for which he made no return within the time required.

1 Upon the basis of this estimate the board shall determine
2 the license tax due from the distributor, and shall add to
3 the license tax a penalty of 10 percent thereof. The board
4 may make a determination for more than one period and
5 may make one or more determinations for the same
6 period.

7 SEC. 23. Section 7705 of the Revenue and Taxation
8 Code is amended to read:

9 7705. If any distributor fails to pay any weekly
10 installment of tax shown to be due by his return on the
11 Tuesday when required to be paid, a penalty of 5 percent
12 shall be added thereto. In addition, if any weekly
13 installment of tax remains unpaid on the 25th day of the
14 calendar month following the month during which the
15 last of the ~~distributions~~ *removals or entries* occurred on
16 which the weekly installment was levied, a penalty of 10
17 percent of the installment, exclusive of penalties, shall be
18 added thereto.

19 The weekly installment shall be deemed not paid or
20 unpaid on any particular day:

21 (a) If not paid prior to 5 p.m. of that day, when paid in
22 person.

23 (b) If the envelope in which the remittance is enclosed
24 bears a post office cancellation mark dated later than that
25 day, when paid by mail.

26 SEC. 24. Section 7726 of the Revenue and Taxation
27 Code is amended to read:

28 7726. If any person becomes a distributor without first
29 securing a license, the license tax, applicable penalties
30 and interest, if any, become immediately due and payable
31 on account of all motor vehicle fuel ~~distributions made~~
32 *removed, sold, or entered* by him or her.

33 ~~Except as provided in Section 7356 and paragraph (5)~~
34 ~~of subdivision (a) of Section 7401, a broker who acquires~~
35 ~~motor vehicle fuel with respect to which there has not~~
36 ~~been a distribution on which tax has been paid pursuant~~
37 ~~to this part, commingles any untaxed product with~~
38 ~~tax paid fuel and distributes the resultant product as~~
39 ~~motor vehicle fuel, or sells or otherwise distributes any~~
40 ~~untaxed product for resale or use as motor vehicle fuel,~~

~~shall be regarded as an unlicensed distributor of that
gallonage of motor vehicle fuel or product distributed or
in his or her possession which is in excess of his or her
acquisition of motor vehicle fuel from distributions with
respect to which the tax has been paid, and shall be
subject to the provisions of this article as an unlicensed
distributor of that excess fuel, unless he or she shall
establish that the license tax has been paid with respect
to all fuel sold or otherwise disposed of by him or her.~~

SEC. 25. Section 7727 of the Revenue and Taxation Code is amended to read:

7727. The board shall forthwith ascertain as best it may the amount of ~~the distributions~~ *motor vehicle fuel removed, sold, or entered* and shall determine immediately the license tax on the amount, adding to the license tax a penalty of 25 percent of the amount of the tax, and shall give the unlicensed distributor notice of this determination as prescribed by Section 7493; provided, however, that where the board shall determine that failure to secure a license was due to reasonable cause, such penalty may be waived. Provisions of Sections 7699 and 7700 shall be applicable with respect to the finality of the determination and the right of the unlicensed distributor to petition for a redetermination.

SEC. 26. Section 8253 of the Revenue and Taxation Code is amended to read:

8253. The board may make such examinations of the records of distributors, ~~producers and brokers~~ and such other investigations as it may deem necessary in carrying out the provisions of this part.

SEC. 27. Section 8303 of the Revenue and Taxation Code is repealed.

~~8303. Every producer shall keep an accurate record in such form as the board may prescribe of all manufacture, sales, and deliveries of kerosene distillate, kerosene, Diesel fuel, gas oil, stove oil, distillate and any other petroleum product used in, or which may be used in, the blending, compounding, or manufacturing of motor vehicle fuel.~~

1 SEC. 28. Section 8303 is added to the Revenue and
2 Taxation Code, to read:

3 8303. (a) Each terminal operator shall keep the
4 following information with respect to each rack removal
5 of motor vehicle fuel at each terminal it operates:

6 (1) The bill of lading or other shipping document.

7 (2) The volume and date of the removal.

8 (3) The identity of the position holder or position
9 holder's customer.

10 (4) Any other information required by the Internal
11 Revenue Service pursuant to Section 48.4101-3T of Title
12 26 of the Code of Federal Regulations.

13 (b) The terminal operator shall maintain the
14 information described in this section at the terminal from
15 which the removal occurred for at least three months
16 after the removal to which it relates.

17 SEC. 29. Section 8304 of the Revenue and Taxation
18 Code is repealed.

19 ~~8304. Every broker shall likewise keep an accurate~~
20 ~~record of all purchases and sales of motor vehicle fuel and~~
21 ~~petroleum products mentioned in Section 8303, the~~
22 ~~record to show the vendor and vendee, the quantity~~
23 ~~purchased and sold, the correct description of the~~
24 ~~commodity, and the means of transportation from the~~
25 ~~vendor to the broker and from the broker to his vendee.~~

26 SEC. 30. Section 60050 of the Revenue and Taxation
27 Code is amended to read:

28 60050. (a) (1) A tax of eighteen cents (\$0.18) is
29 hereby imposed upon each gallon of diesel fuel subject to
30 the tax in Sections 60051, 60052, and 60058.

31 (2) *Commencing April 1, 2001, and on each April 1*
32 *thereafter, the board shall establish the rate of the diesel*
33 *fuel tax by multiplying the prior year's diesel tax rate by*
34 *an adjustment factor. The adjustment factor shall be the*
35 *percentage change from August of the prior fiscal year to*
36 *August of the current fiscal year in the California*
37 *Consumer Price Index for all items, as determined by the*
38 *California Department of Industrial Relations, or its*
39 *successor agency. Any increase or decrease in the tax rate*
40 *shall be made in increments of one-tenth of one cent*

1 (\$0.001) per gallon. The board shall make its
2 determination of the rate no later than November 1 of the
3 year prior to the effective date of the new rate.
4 Immediately upon making its determination and setting
5 of the rate, the board shall each year, no later than
6 January 1, notify by mail every taxpayer of diesel fuel.

7 (b) If the federal fuel tax is reduced below the rate of
8 fifteen cents (\$0.15) per gallon and federal financial
9 allocations to this state for highway and exclusive public
10 mass transit guideway purposes are reduced or
11 eliminated correspondingly, the tax rate imposed by this
12 section, on and after the date of the reduction, shall be
13 increased by an amount so that the combined state and
14 federal tax rate per gallon equals thirty-three cents
15 (\$0.33). On and after January 1, 2002, the combined rate
16 per gallon shall be the amount calculated pursuant to
17 paragraph (2) of subdivision (a) plus fifteen cents
18 (\$0.15).

19 (c) If any person or entity is exempt or partially
20 exempt from the federal fuel tax at the time of a
21 reduction, the person or entity shall continue to be
22 exempt under this section.

23 SEC. 31. Section 60050.1 of the Revenue and Taxation
24 Code is amended to read:

25 60050.1. ~~(a)~~ For the privilege of storing, for the
26 purpose of removal, sales, or use, every wholesaler
27 owning undyed diesel fuel on July 1, 1995, shall pay a tax
28 of eighteen cents (\$0.18) for each gallon of undyed diesel
29 fuel according to the volumetric measure thereof, on
30 which a tax has not been imposed under Part 3
31 (commencing with Section 8601) as in effect on June 30,
32 1995, and tax would have been imposed on any prior
33 removal, entry, or sale of undyed diesel fuel had Sections
34 60050 to 60061, inclusive, applied to undyed diesel fuel for
35 the period before July 1, 1995.

36 ~~(b) For purposes of subdivision (a):~~

37 ~~(1) "Storing" includes the possession in a storage~~
38 ~~facility, except an approved terminal or refinery, or a~~
39 ~~container of any kind, including the fuel tanks of motor~~
40 ~~vehicles, of undyed diesel fuel and the undyed diesel fuel~~

~~1 purchased from and invoiced by the seller prior to July 1,~~
~~2 1995, and in transit on that date.~~

~~3 (2) "Owning" means having title to the undyed diesel~~
~~4 fuel.~~

~~5 (3) "Wholesaler" means any person who sells diesel~~
~~6 fuel in this state for resale to a retailer or to a person who~~
~~7 is not a retailer and subsequently uses the diesel fuel and~~
~~8 was required to be licensed under Part 3 (commencing~~
~~9 with Section 8601) as a wholesaler as in effect on June 30,~~
~~10 1995.~~

11 SEC. 32. Section 60050.2 is added to the Revenue and
12 Taxation Code, to read:

13 60050.2. (a) For the privilege of storing, for the
14 purpose of sale or use in the propulsion of a motor vehicle
15 on a highway, every person, except a duly licensed
16 supplier, exempt bus operator, governmental entity, or
17 the government of the United States and its agencies and
18 instrumentalities, owning 1,000 gallons or more of undyed
19 diesel fuel on April 1, 2001, and on April 1 of each year
20 thereafter, shall pay a tax at the adjusted rate for each
21 gallon of the undyed diesel fuel according to the
22 volumetric measure, thereof, on which a tax has been
23 imposed under Section 60050. However, no storage tax
24 shall be imposed if the rate adjustment is less than two
25 cents (\$0.02) per gallon for that fiscal year.

26 (b) For purposes of subdivision (a):

27 (1) "Storing" includes the possession in a storage
28 facility, except an approved terminal or refinery, or a
29 container of any kind, including the fuel tanks of motor
30 vehicles, of undyed diesel fuel and the undyed diesel fuel
31 purchased from and invoiced by the seller prior to April
32 1 and in transit on that date.

33 (2) "Owning" means having title to the undyed diesel
34 fuel.

35 SEC. 33. Section 60201.1 of the Revenue and Taxation
36 Code is repealed.

~~37 60201.1. Each person subject to the tax imposed under~~
~~38 Section 60050.1, on or before September 30, 1995, shall~~
~~39 prepare and file with the board, on forms prescribed by~~
~~40 the board, a return showing the total number of gallons~~

1 ~~of undyed diesel fuel owned by the person on July 1, 1995,~~
2 ~~for which a tax has not been imposed under Part 3~~
3 ~~(commencing with Section 8601) as in effect on June 30,~~
4 ~~1995, the amount of the tax imposed, and any other~~
5 ~~information that the board deems necessary for the~~
6 ~~proper administration of this part.~~

7 ~~The return shall be accompanied by a remittance~~
8 ~~payable to the board in the amount of tax due.~~

9 SEC. 34. Section 60201.1 is added to the Revenue and
10 Taxation Code, to read:

11 60201.1. Each person subject to the tax imposed under
12 Section 60050.1, within one month following the date of
13 imposition of the tax, shall prepare and file with the
14 board, on forms prescribed by the board, a return
15 showing the total number of gallons of undyed diesel fuel
16 owned by the person on the date of imposition of the tax
17 for which a tax has been imposed under Section 60050.2,
18 the amount of the tax imposed, and any other information
19 that the board deems necessary for the proper
20 administration of the part.

21 The return shall be accompanied by a remittance
22 payable to the board in the amount of tax due.

23 SEC. 35. This act provides for a tax levy within the
24 meaning of Article IV of the Constitution and shall go into
25 immediate effect.